

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
 CHRISTINE HATCHER, Individually and :
 on Behalf of All other persons similarly situated, :
 :
 Plaintiffs, :
 : 06 CIV. 705 (LAK)
 -against - :
 :
 CONCERNED HOME MANAGERS FOR THE :
 ELDERLY, INC. :
 :
 Defendants. :
 -----x

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 DOC #: _____
 DATE FILED: 3/23/06

STIPULATION AND ORDER STAYING ACTION

Plaintiff, who has filed suit herein as "CHRISTINE HATCHER, Individually and on Behalf of All other persons similarly situated," and Defendant, "CONCERNED HOME MANAGERS FOR THE ELDERLY, INC." by and through their undersigned counsel, who are duly authorized, hereby enter into this STIPULATION, and agree as follows:

WHEREAS Plaintiff filed a Complaint on or about January 31, 2006, alleging she and similarly situated employees are owed overtime wages under the Fair Labor Standards Act, 28 U.S.C. § 201 *et seq.* ("FLSA") and New York Labor Law;

WHEREAS the United States Supreme Court vacated and remanded the decision of the United States Court of Appeals for the Second Circuit in *Coke v. Long Island Care at Home*, 376 F 3d 118 (2d Cir. 2004) on January 23, 2006; and

WHEREAS the decision of the Court of Appeals for the Second Circuit on remand may require dismissal of the claims presented herein by Plaintiff,

IT IS HEREBY STIPULATED AND AGREED THAT:

1. This action is stayed pending the decision of the United States Court of Appeals for the Second Circuit in the case entitled *Coke v. Long Island Care at Home*, Docket No. 03-7666.
2. Within thirty days from the decision of the United States Court of Appeals for the Second Circuit in the case entitled *Coke v. Long Island Care at Home*, Docket No. 03-7666,
 - i. Plaintiff will dismiss the action, per Rule 41 of the Federal Rules of Civil Procedure, if the Court rules in favor of Long Island Care at Home; or
 - ii. Defendant will file an Answer to the Complaint or file a motion to dismiss if the Court rules in favor of Coke.

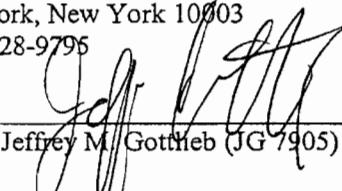
3. From the date of execution of the STIPULATION to and until the date of the Second Circuit's decision in *Coke v. Long Island Care at Home*, Docket No. 03-7666, Defendant agrees that the statute of limitations applicable under the FLSA is tolled as to non-exempt employees paid on an hourly basis performing duties as home health aides (regardless of how such position may be referred to or titled).

LOCKS LAW FIRM, PLLC
Attorneys for Plaintiff
110 East 55th Street, 12th Floor
New York, New York 10022
(212) 838-3833

By: 
Fran L. Rudich (FR 7577)
Seth R. Lesser (SL 5560)

Dated: March 10, 2006

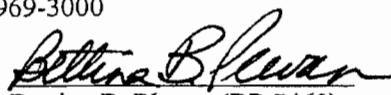
BERGER & GOTTLIEB
Attorneys for Plaintiff
150 East 18th Street Suite PHR
New York, New York 10003
(212) 228-9795

By: 
Jeffrey M. Gottheib (JG 7905)

Dated: March 10, 2006

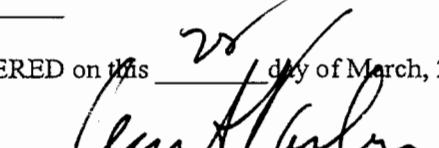
*The case is placed on the
suspense
docket. M*

PROSKAUER ROSE, LLP.
Attorneys for Defendant
1585 Broadway
New York, New York 10036
(212) 969-3000

By: 
Bettina B. Plevan (BP 7460)
Larry Bliss (LB 6396)

Dated: March 10, 2006

SO ORDERED on this 28 day of March, 2006


United States District Judge